

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008**

Place: Auditorium
Town Hall

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Spain, Grimes, Finke, Hutchison

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

GENERAL MEETING

Mr. Spain served as Chairman and read the following agenda item:

Discussion and deliberation only regarding the following application:

Proposed Amendment to the Darien Zoning Map and Zoning Regulations, Affordable Housing Application, Site Plan Application #262, Land Filling & Regrading Application #211, Amendment to the Town Plan of Conservation & Development, Christopher & Cynthia Hamer, 26 Oak Crest. Proposing to construct 10 residential condominium units (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in two new buildings with associated parking, and to perform related site development activities. The applicant is requesting the establishment of a new HOD zoning district; an amendment to the zoning map rezoning the property to HOD; and corresponding changes to the Town Plan. The subject property is located on the southeast side of Oak Crest approximately 1,000 feet east of its intersection with Mansfield Avenue, and is shown on Assessor's Map #15 as Lot #101 and Parcels X-1 and X-2, in the R-1/2 Zone. *PUBLIC HEARING CLOSED ON 11/6/2008. DEADLINE TO DECIDE MATTER IS: 1/9/2009.*

Mr. Spain said that he had missed the last Public Hearing, but has listened to the tapes and read the submitted materials to stay up to speed with the application.

Mr. Ginsberg noted that there were many aspects to the application. There is a request to amend the Town Plan of Conservation & Development if the Commission believes that this is necessary. The next is to amend the Zoning Regulations and the Zoning Map. Finally, the applicant is requesting a Special Permit and Site Plan approval for the proposed use. Mr. Ginsberg said that the Darien Environmental Protection Commission (EPC) had concluded its public hearing, and sent a report dated November 6, 2008 to the Commission. Mr. Spain said that since two members of the Planning & Zoning Commission were not available to attend tonight's meeting, the Commission members will discuss the matter, but will take no action on the application.

Mr. Finke said that the decision of the EPC to deny the application certainly has an impact on some aspects of the application for the Planning & Zoning Commission. Mr. Ginsberg said that the Planning & Zoning Commission needs to decide the Town Plan amendment as well as the Zoning Map and Zoning Regulation requests regardless of the EPC's denial of the site plan due to the

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 2

environmental, drainage, and engineering impacts. Mr. Finke said that this is an inappropriate site for such a dense development. He said that there were safety issues presented by the Darien Fire Marshal regarding the narrow restricted width of Oak Crest, and the inability to maneuver emergency equipment on or adjacent to the site. There was some testimony regarding ways to get the apparatus out of the site, but that did not seem credible due to the emergency nature of a situation where such apparatus would be necessary. He also noted that there was uncertainty about water pressure available for the multi-family development. He said that the construction of a multi-family project on the subject property would be a "disaster waiting to happen". He noted that there are no sidewalks on the street and that people who live there currently, walk on the quiet street. Increasing the number of dwelling units will increase the number of vehicles using the street, and this will naturally increase the likelihood of an accident. Mr. Finke said that there are lots of existing problems with stormwater that flows through the property to the Goodwives River, and that constructing a large impervious surface on the site will make those problems worse. The engineering designed to address the drainage will require that everything has to work perfectly, or it would become a drainage problem for other people. He said that he was opposed to approving the application.

Mr. Hutchison said that the traffic engineer included in his written report that there would be no increase in risks due to the traffic increases, yet in the discussion there is an incremental increase in the risk, and he said so at the meeting. Mr. Hutchison said that the EPC's decision to deny the application is important. He noted that it would be extremely difficult to build the project when there would be so much developed area on such a limited site. He said that the development could quickly get out of control. He said that the benefit of three affordable housing units versus the impact on the neighboring properties must be weighed.

Ms. Grimes agreed with the other two members, and said that safety during the construction process would be a serious issue. She said that she would not be able to vote for the application.

Mr. Spain said that the site plan is woefully deficient and would result in many negative impacts. He said that the water quality would be compromised from this site down to the Long Island Sound. He said that the volume of water would also be impacted if any part of the stormwater system did not work perfectly. He noted that the problem seems to be that there is too much development activity and it cannot be addressed by adding more detention systems in the ground. He said that he has a problem with changing the zoning to put ten more housing units at the far end of the street that already has too many houses to comply with the current Subdivision Regulations. He said that he is inclined to deny the application, but wants to also hear from the other Commission members who are not present tonight. No action was taken on the application.

Mr. Spain then read the following agenda item:

Discussion, deliberation, and possible decision regarding the following application:

Proposed Amendment to the Darien Zoning Regulations, Business Site Plan #265, Baywater 17 OKHS, LLC, 17 Old King's Highway South. Proposal to modify Section 715 of the Darien Zoning Regulations to increase the existing maximum Developed Site Area in the Office Business (OB) Zone from 70% to 80%; and to raze the existing office building, and construct a new two story building, reconfigure parking lot; and perform related site development activities. The subject property is located on the east side of Old King's Highway South, directly across from its

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 3

intersection with Center Street, and is shown on Assessor's Map #38 as Lots #12 & #13 in the OB Zone. *DECISION DEADLINE: 12/24/2008.*

The following motion was made: That the Commission waive the process of reading the draft resolution aloud because each member has had an opportunity to read the draft prior to the meeting. The motion was made by Mr. Finke, seconded by Mr. Hutchison and unanimously approved.

In the discussion, Mr. Hutchison asked if the transformer would count as part of the 20% Building Coverage. Mr. Ginsberg said that the transformer and all other HVAC equipment count as part of the Building Coverage. He also noted that the Zoning Board of Appeals seldom grants a variance of the Building Coverage. The members agreed that the applicant will need to make sure to include all the equipment in the final plans and not exceed the allowable 20% Building Coverage. They also wanted the resolution clarified with regard to the maximum allowable floor area permitted by the approval.

The following motion was made: That the Commission adopt the following revised resolution to approve the Zone Text amendment and the Business Site Plan subject to the conditions and stipulations as noted in the resolution. The motion was made by Mr. Finke, seconded by Mrs. Grimes and unanimously passed.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 25, 2008**

Application Number: Proposed Amendment to the Darien Zoning Regulations
Business Site Plan #265

Street Address: 17 Old King's Highway South
Assessor's Map #38 Lots #12 & #13

Name and Address of Property Owner: Baywater 17 OKHS, LLC
78 Harvard Street, Suite 300
Stamford, CT 06902

Name and Address of Applicant & Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates, PC
3 Parklands Drive
Suite 207
Darien, CT 06820

Activity Being Applied For: Proposal to modify Section 715 of the Darien Zoning Regulations to increase the existing maximum Developed Site Area in the Office Business (OB) Zone from 70% to 80%; and to raze the existing office building, and construct a new two story building, reconfigure parking lot; and perform related site development activities.

Property Location: The subject property is located on the east side of Old King's Highway South, directly across from its intersection with Center Street.

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 4

Zone: OB Zone

Date of Public Hearing: July 29, 2008 continued to September 23, 2008
and immediately continued to October 21, 2008

Time and Place: 8:00 P.M. Auditorium (7/29); Room 206 (9/23); Room 119 (10/21) Town Hall

Publication of Hearing Notices

Dates: July 17 & 24, 2008
September 11 & 18, 2008

Newspaper: Darien News-Review

Date of Action: November 25, 2008

Action: AMENDMENT TO THE ZONING REGULATIONS ADOPTED, WITH AN
EFFECTIVE DATE OF SUNDAY, DECEMBER 21, 2008 AT TWELVE NOON.
SITE PLAN APPROVED WITH CONDITIONS,
EFFECTIVE ON DECEMBER 21, 2008 AT 12:01 P.M.

Scheduled Date of Publication of Action:
December 4, 2008

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 710 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

Business Site Plan Application #265:

1. The application consists of two parts: 1) to raze the existing one story office building and to construct a new two story building, reconfigure parking lot; and perform related site development activities; and 2) to modify Section 715 of the Darien Zoning Regulations to increase the existing maximum Developed Site Area in the Office Business (OB) Zone from 70% to 80%. The subject property is 1.2275+/- acres and has access to public water and public sewer.

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 5

2. When the application was originally submitted, the request was for a Business Site Plan approval only. The applicant's representative modified the application on September 25, 2008 to include an Amendment of the Zoning Regulations.
3. The Architectural Review Board (ARB) approved this request as part of ARB #21-2008 on July 16, 2008. That approval is hereby incorporated by reference. The applicant specifically noted that no work is proposed within 100 feet of the Goodwives River, or within 50 feet of its adjacent wetlands, and thus, no formal review or action from the Environmental Protection Commission (EPC) was required.
4. The proposal is to raze the existing one story, 8,000 square foot building and construct a new two story building. The first floor would contain 9,400-9,500 square feet gross floor area and the second floor would contain 9,500+/- square feet of gross floor area. There would also be 786 square feet of an elevator and storage area. There would be, at most, 18,872 square feet of proposed usable floor area. The building would occupy just less than 20% of the lot area. The Office Business (OB) Zone only allows two-story buildings, and thus, there cannot be any finished space in the basement. No finished space in the basement was proposed as part of this application.
5. The current proposal is to have office use on each of the two floors. The applicant has designed the first floor so that at some point in the future, they might be able to convert it to a retail use. Such use is not currently allowed in the OB Zone. Before such a change takes place, applicant would need to come back to the Planning & Zoning Commission for an amendment of this decision.
6. During the public hearing, it was noted that the applicant will attempt to save the large honey locust tree and pin oak trees at the front and sides of the proposed building. They will be adding new trees and shrubs to the front of the building as shown on the submitted Planting & Lighting Plan. The applicant proposes to perform maintenance and cleaning of debris from the area along the edge of the Goodwives River, but otherwise, there is no work planned in that EPC-regulated area.
7. The applicant's engineer said that there is no change to the volume of runoff being created. The storm water runoff will be put through a new series of cleansers before the water is detained and eventually the outflow will be directed toward the Goodwives River.
8. There is now a shared parking agreement in effect with the property at 9 Old King's Highway South (former Exxon Chemical office building) and 65 Tokeneke Road (the former Darien Dinner Theater, now the New Life Christian Fellowship). A copy of that agreement was submitted for the record (from Vol. 415 Page 317 of the Darien Land Records) and will remain in full force and effect with no proposed changes to it. Applicant relies on the Joint Parking Arrangement involving all three sites. In 1977, approvals were obtained for the existing one story building to be expanded to a two story building, but that second floor construction never took place.
9. During the public hearing, the applicant's traffic and parking engineer stated that the on-site parking can support the proposed 18,872+/- square foot building. He also noted that the

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 6

proposed building is close enough to have workers walk to and from the Darien train station two blocks away. He said that the on-site parking does not comply with the current Regulations, but there will be sufficient on-site parking to accommodate the employees and visitors to the building through the existing Shared Parking Agreement.

10. Relative to parking, the applicant noted that the proposed building is across the street from the municipally-owned Center Street North municipal parking lot. The applicant is not relying upon municipal parking. The 300+/- spaces on the three private properties will support the three buildings involved in the Shared Parking Agreement. The applicant noted that they will come back before the Planning and Zoning Commission if, in the future, they desire to convert any portion of the proposed building from office use to retail use. The Commission confirms that any change in the future from office use to retail use will require an analysis of adequacy of on-site parking and other issues.
11. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

Amendment to the Zoning Regulations

1. The applicant proposes to amend the Darien Zoning Regulations by modifying Section 715 of the Darien Zoning Regulations to increase the maximum Developed Site Area in the Office Business (OB) Zone from 70% to 80%.
2. A September 25, 2008 two-page letter was submitted to the Planning & Zoning Department by the applicant, outlining the proposed zoning regulation amendment and how the request is consistent with the 2006 Town Plan of Conservation & Development. Per the State Statutes, that letter was also filed with the Darien Town Clerk on September 25, 2008.
3. Regarding the proposed zoning text amendment, the current maximum Developed Site Area in the Office Business (OB) Zone is 70%. The applicant proposes to change that to be 80%, which is similar to other commercial zones in Darien. The DB-2 and OB Zones are now the only two zones in Darien which require Developed Site Area to be 80% or less. The applicant said that the Developed Site Area on the subject property is now 75%+. They propose to increase that by one percent as part of the subject application. The applicant noted at the public hearing that the 80% maximum is consistent with many other commercial zones in Town.
4. The Commission hereby finds that the proposed Amendment of the Darien Zoning Regulations is fully consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that : Business Site Plan #265 is hereby approved with conditions, EFFECTIVE ON DECEMBER 21, 2008 AT 12:01 P.M., subject to the foregoing and following stipulations, modifications and understandings:

- A. All construction and related activity shall be in accordance with the plans submitted to and reviewed by the Commission:

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 7

- Zoning Location Survey #17 Old Kings Highway South prepared for Baywater 17 OKHS, LLC, by William W. Seymour & Associates, scale 1"=30', dated July 25, 2008.
 - Planting & Lighting Plan, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Environmental Design Associates PC, dated June 2008, last revised 7.29.08, S3.1.
 - Drainage & Utility Plan, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Tighe & Bond, dated June 2008, C1.1.
 - Sedimentation & Erosion Control Plan, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Tighe & Bond, dated June 2008, C2.1.
 - Sedimentation & Erosion Control Details, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Tighe & Bond, dated June 2008, C2.2.
 - Drainage Detail, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Tighe & Bond, dated June 2008, C3.1.
 - Drainage Detail, Baywater 17 OKHS, LLC, 17 Old King's Highway South, by Tighe & Bond, dated June 2008, C3.2.
- B. The submitted Planting & Lighting Plan shows four trees to be removed which are not on the subject property. It also shows the construction of traffic islands, and the installation of some landscaping, including tree planting on an adjacent property to the northeast. Prior to removal of those trees or any work on the adjacent property, the applicant must obtain approval from the property owner for that work, and provide written copies of that approval to the Commission.
- C. Per the comments of the Public Works Department, a Stormwater Maintenance Agreement shall be filed in the Darien Land Records noting that the property owner is responsible for maintaining the proposed drainage system, and not the Town of Darien. That Agreement shall be filed prior to the request for the Zoning and Building Permits for the proposed building.
- D. Because of the nature of the proposed office use, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. Although the applicant has a loading zone laid out on the submitted Planting & Lighting Plan, it does not have to be signed as such on the property. However, any change in uses may require a loading zone in the future. If in the future, the applicant proposes retail uses in this building, the Commission will likely require modifications to the size and location of any loading area on-site.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. The Dumpster enclosure area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use, because if the

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 8

doors are left opened, it may obstruct parking spaces within the property. The Commission specifically notes that it is highly unusual to approve a Dumpster enclosure area which opens out onto parking spaces. However, in this specific circumstance, it is appropriate as the fact that this is a two-story office building and the existing building does not have any Dumpster area at all, according to the June 16, 2008 Zoning Location Survey. If in the future, the applicant proposes retail uses in this building, the Commission will likely require modifications to the size and location of any Dumpster enclosure area on-site.

- G. Per the Fire Marshal's comments, a fire hydrant shall be located on the sidewalk area adjacent to Boston Post Road. This shall be specifically sited to minimize any impacts or loss of existing on-street parking. The Fire Marshal shall be consulted prior to the siting of the hydrant. This will provide necessary service and shall be installed prior to the Certificate of Occupancy for the building. Alterations to the interior floor plans may be required by the Fire Marshal as part of his Zoning and Building Permit review.
- H. With the Zoning and Building Permit applications, the applicant shall submit detailed information regarding the building coverage of the proposed building including any and all transformers, HVAC units and other ancillary structures to be on the property to ensure that the 20% building coverage maximum is not exceeded.
- I. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- J. The owner will need to make arrangements for the staging and construction process so as not to encumber any of the adjacent right-of-way or parking areas, or any on-street parking in the vicinity.
- K. The applicant shall install the drainage system as shown on the submitted June 2008 Drainage and Utility Plan referenced in Condition A, above. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- L. All site work, including but not limited to sidewalks, access drive, curbing, paved and striped parking spaces, drainage systems, safety signage, transformer, dumpster enclosure, landscaping and other site improvements as shown on the approved plans shall be properly installed and completed prior to the use of or the issuance of a Certificate of Occupancy for any portion of the proposed building.
- M. All landscaping shall be installed per the submitted Planting & Lighting Plan referenced in Condition A, above. Any requested changes or substitutions are subject to prior action in writing by the Planning and Zoning Commission. Prior to the removal or cutting of any trees or vegetation within Town property (along the Old King's Highway South) the applicant must obtain authorization from the Town Tree Warden for work on Town property.

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 9

- N. It is incumbent upon the property owner and applicant to maintain the installed drainage system, including, but not limited to, maintenance of the underground structures, (such as inspection and clean out once every 18 months or more frequently as needed). A long-term maintenance plan for drainage shall be submitted for review and action by the Planning & Zoning Director, Town Counsel and the Department of Public Works prior to the request for the Zoning and Building Permits for the new building. Once approved, the plan shall be filed in the Darien Land Records and implemented by the applicant and future property owners.
- O. This is not a stand-alone project. It is dependent upon a joint parking area to serve the parking needs of this site. The entire joint parking area and related access must be completed and accessible prior to the use of the building. If, due to ongoing construction on the project, the entire joint parking area will not be available for use in conjunction with this building, then the applicant must submit a detailed plan to the Commission illustrating how the parking, unloading, waste management and pedestrian access will function on an interim basis. The Commission shall consider the request to temporarily modify this condition about the completion of the entire joint parking area. Depending upon the specific circumstances, the Commission may or may not allow use or occupancy of the building prior to the completion of all parking.
- P. A final “as-built” survey is hereby required to certify that the site improvements (including drainage and landscaping) are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans.
- Q. An as-built survey from a licensed land surveyor shall be submitted to the Planning and Zoning Office before a Certificate of Occupancy for the building is requested, or any use of the proposed building occurs. This survey shall show the building as well as the lighting, locations and elevations of all drainage and drainage-related structures, and lined parking spaces. A certification shall be submitted regarding the final building height, setbacks, building coverage, and developed site area as constructed.
- R. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- S. The granting of this Business Site Plan does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Darien Fire Marshal; a Demolition Permit from the Building Official; a street opening permit from DPW for work within the Town right-of-way on Old King’s Highway South, and a Sewer Connection Permit from Sewer Services.
- T. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of the effective date of this action (December 20, 2009). This may be extended as per Section 1028.

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 10

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void.

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendment to the Darien Zoning Regulations*** regarding Section 715 requirement #13, Maximum Developed Site Area is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 21, 2008 AT TWELVE NOON.

The approved wording for Section 715 is as follows:

New wording in bold, deletions in strikeout:

715. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	½ acre (21,780 sq. ft.)
2. Minimum Lot Width	100
3. Minimum Lot Frontage	100
4. Minimum Lot Depth	150
5. Minimum Front Yard	30 (See Note a)
6. Minimum Side Yard	10 (See Note b)
7. Minimum Rear Yard	50
8. Maximum Height in Stories	2
9. Maximum Height in Feet	28
10. Maximum Building Coverage	20%
11. Minimum Off-Street Parking and Loading	(See Note c)
12. Minimum Front Landscape Depth	10
13. Maximum Developed Site Area	80% 70%
14. Minimum Setback from Any Residential or DOR Zone	50

Notes:

- a. As stated above, except no parking shall be permitted in front of any building unless the setback from the street line shall be at least 75 feet. On streets of less than 50 feet width, the front yard setback shall be measured from the center line of the street and 25 feet shall be added to the required front yard setback. See Subsection 372 for requirement where setback of existing buildings shall be greater or less than minimum requirement.
- b. As specified above, except that at least 25 feet shall be provided where the side yard furnishes vehicular access to the rear, and except that the Commission, in approving a Site Plan, may permit a building to abut a side line where it finds such shall create a better plan.

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 11

- c. Minimum Parking Setback: 10 feet from street line, five feet from side line (except where common or shared parking shall be permitted), 25 feet from a Residential Zone.

The Commission members decided to postpone action on the draft minutes until the other members could be present.

The PUBLIC HEARING was called to order at 8:05 P.M.

Mr. Spain read the following agenda item:

Amendment of Zoning Map #4-2008, Amendment of Zoning Regulations #8-2008, Site Plan Application #268, Special Permit Application #122-A, Land Filling & Regrading Application #219, lot line revision, Darien Housing Authority, Noroton Avenue, Elm Street, and West Avenue. Proposing to replace the existing single-family residences and apartment building which now comprise Allen-O'Neill Homes; to amend the DMR Zoning Regulations, and rezone the properties to DMR; abandon the existing Allen-O'Neill Drive; revise lot lines; construct 24 new apartment and townhouse structures containing 116 units of housing; construct one community building; install drainage facilities; and to perform related site development activities. The subject properties are on the east side of Noroton Avenue, approximately 450 feet north of its intersection with West Avenue, and is shown on Assessor's Map #21 as Lots #14, #15, #17, #21, #22, #68-99, #100-107 and are located in the R-1/3 Zone.

Attorney Bruce Hill represented the Darien Housing Authority, and explained that there are now 42 single-family houses and a twelve unit apartment building on the site. The apartment building is a non-conforming use within this single-family residential zone for over 50 years. In 2007, the Darien Housing Authority analysis indicated that this facility is an underutilized asset and it is in need of redevelopment. The proposed redevelopment will contain four to eight units per building. The units will range from 1-4 bedrooms in size. In order to accommodate this change, the existing R-1/3 zoning is proposed to be changed to the Designed Multi-Family Residential (DMR) Zoning District, and the text of the DMR Zone would be modified as it regards sites owned by the Darien Housing Authority. He explained that this is not an application under Section 8-30g of the Connecticut General Statutes. In the future, they will make a separate application about the abandonment of the existing public street (Allen O'Neill Drive) and a Mandatory Referral will be submitted under CGS Section 8-24 for an extension of the existing sanitary sewer system. With regard to the Zone change, Attorney Hill noted that the existing DMR Zone works well, with the exception of the front yard setback, which needs to be modified from 50 feet to 30 feet, and an increase of the density from 6 units/acre to 12 units/acre, and the number of required parking spaces from 2.5 per unit to 2.0 per unit. They also request that permission be given to increase the floor area ratio (FAR). He noted that the surrounding residential zones allow houses to be up to 30 feet tall. The proposed development and the DMR regulations only allow buildings up to 28 feet tall.

Mr. Spain expressed some concern about the modification of the zoning regulations based solely upon the ownership of the property. Mr. Hill responded that the intent is to avoid having a general precedent being set for all private owners. He noted that the exemption could apply to the Housing Authority or any Town agency. He mentioned that the Regulation can allow up to 12 units per acre, because that is the maximum allowed in another portion of the Zoning Regulations, but in reality,

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 12

they are proposing 9.7 units per acre under this development plan. Mr. Hill noted that including the roadways, the entire development is 12 acres in size. Mr. Hutchison expressed concern that changing the roadway from Town ownership to private ownership by the Housing Authority would allow more building coverage without really increasing the amount of land involved. Ms. Grimes noted that the exception under Section 514 of the Regulations is for more than just the Darien Housing Authority.

At about 8:30 P.M., Mr. William Crosskey, project architect, explained that the development is a site within a traditional older neighborhood. He said that the new buildings will be larger than some existing buildings in the neighborhood, but they are in scale with some of the larger houses in the neighborhood. The new buildings will look like two houses that have been pushed together. The new private driveway will replace the existing public street. One driveway from Noroton Avenue will be into the site, and the other will lead out of the site to Noroton Avenue. There will be no driveway to West Avenue. Mr. Crosskey noted that one other aspect of the project is to realign the parade ground to be across from the Fire House. Parking for each unit will be in a designated parking lot, or in private driveways adjacent to each unit. In some cases, the parking spaces will be tandem (front to back) spaces for many of the units. This is very similar to what you could see for a single-family residence. Other parking spaces for guests have been designed adjacent to the private driveway near the relocated parade ground. A large open play area has been designed on the north portion of the site. In all, there will be 24 new residential buildings and a community building. Mr. Crosskey reviewed the architectural drawings. He pointed out the pitched roof, clapboard siding and brick veneer, and said that the 28 foot building height will fit in with the neighborhood. Mr. Crosskey said that the three buildings closest to the intersection of West Avenue and Noroton Avenue will each contain eight dwelling units. The other building designs vary. Mr. Crosskey explained that there would be a community building that would contain 1,750+/- square feet, and that there would be a storage shed and a trash storage area.

Ozzie Torres, professional engineer from Torres Engineering, explained that there are four existing drainage areas. Most of the storm water now drains to the southeast towards West Avenue. After the regrading to accommodate the development, the drainage areas will be very similar, but slightly altered. Less area will flow to the southwest (towards Heights Road), once the development is completed. The plan is to create storm water detention areas on the site, so that the peak rate of runoff will not increase. He said that the design is to store and accommodate storm water runoff from a 50-year design storm.

Gary Hath, landscape architect from CR3, said that they will be leaving the grade of the Allen O'Neill Drive pretty much the same. There are now 199 trees on the site, and 111 of these will need to be removed. They will be planting 147 new trees. They will be installing a six foot high fence along the eastern (Fairfield Avenue) property line for privacy and separation of the new units. There will be a series of evergreen trees planted in that area. He said that on-site lighting will consist of 14 foot high pole lamps along the driveway and that they will have a full cut-off design. They would prefer not to install other lighting if they can avoid it.

Mr. Henry Ditman, of Barkan and Mess and Milone and MacBroome, said they studied existing conditions and made traffic projections regarding the proposed development. They also made recommendations regarding improvements of the signage and other safety aspects. The total project would involve 116 units, and this is an increase from the existing 53 units on the site. From his

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 13

report, he highlighted that the existing traffic flow generates 42 trips during the AM peak hour, and 52 trips during the PM peak hour. The proposed peak flows will only be 53 during the AM peak, and 67 during the PM peak. This is an increase of about 11 trips during the AM peak and 15 during the PM peak. They also studied nearby intersections. There is now a Level of Service (LOS) C or better. These will be maintained. He said that the sight lines of the relocated Allen O'Neill Drive (to become a private driveway) will be adequate.

Mr. Joseph Canas, professional engineer from Tighe and Bond engineering, explained that his firm has been hired by the Town to review the plans with respect to storm water runoff. He reviewed his letter of November 18th regarding comments pertaining to the proposal. One concern is the impact of exfiltration of water from the drainage system and the impacts that it might have on the ground water that could affect the neighboring properties. He said that the applicant also needs to provide an analysis of downstream impacts based on detention of storm water to make sure that the timing of flows and the peak flows will not cause problems to other property owners. Mr. Canas explained that part of the project includes the installation of detention basins that will gather the storm water runoff and hold it until it can be released at a controlled rate. Mr. Spain asked if the inclusion of the storm water detention basins would create any danger or hazard to children. Mr. Canas explained that the detention basins are not above ground, open ponds, but rather are underground structures that will have man holes for clean outs and access. He said that the man holes should be lockable so that no one can get in to those detention areas. Mr. Hutchison said that he realizes that there have been some downstream flooding problems and he wanted to know how much better the on-site storm water drainage system can be to actually improve the current situation for down hill property owners rather than just trying to not make it any worse. Mr. Canas said that the applicant can review that issue, but will need to balance the cost efficiencies. He said that the applicant also needs to address water quality standards.

Mr. Hutchison asked about the risk of the system not working as designed or what would happen if the system does not have adequate capacity. Mr. Canas said that the proposed system is subject to the design storm (a 50 year storm) and it appears to satisfy the engineering criteria for a storm of that magnitude. Mr. Spain said that it might be appropriate to maximize the opportunity to have infiltration of storm water on this site. Mr. Canas said that it is possible to add more dry wells or rain gardens and therefore increase the size and capacity of the on-site storm water drainage system.

Attorney Hill distributed written copies of the responses to the drainage comments from Mr. Canas. Ozzie Torres said that some neighbors have an existing problem with ground water and that increasing the infiltration too much could impact those neighbors. He said that they did try to make things better by having less water move to the southwest (towards Heights Road).

Mike Galante of Frederick Clarke Associates explained that he is a traffic consultant for the Town and said that the actual traffic counts are very important. He said that they are adding 63 units and that their counts are much lower than the Institute of Traffic Engineers' estimates for a project of this type. This is due to the different types of units that are proposed. He said that some additional analysis is needed regarding the turning movements. He also noted that the intersection of West Avenue and Noroton Avenue needs to be checked in the field and that the intersection of Noroton Avenue and Elm Street has four way stop signs.

Mr. Spain noted that some residents on the new internal driveway on the north side of the parade ground could only get out to Noroton Avenue by the new one-way driveway and therefore could not

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 14

get onto Noroton Avenue where there is a signal or stop signs, as at the intersection with Elm Street. Mr. Galante said the applicant will need to double check the sight lines and speed limits at that new intersection. He said that the two one-way driveways should have angled parking to encourage the one-way traffic flow and that traffic control signs and bars and crosswalks and other pavement markings should be part of the site plan. Mr. Spain asked if there were other safety improvements that should be considered. Mr. Galante said that sidewalks within the site and sidewalks connecting the site to other existing sidewalks in the neighborhood should be implemented. Mr. Spain asked if the location of some buildings were shifted, would it change the traffic counts. Mr. Galante said that it would not change the traffic counts. He said that it is good that they don't have more curb cuts on Noroton Avenue or West Avenue because they would be problematic.

Attorney Hill passed out preliminary written responses to Mr. Galante's comments. Mr. Ditman said that the traffic counts that have been analyzed do already take into account the High School traffic. He noted that the High School traffic does not occur during the afternoon peak hour. He agreed that there is sometimes a southbound queuing delay on Noroton Avenue as it intersects with West Avenue. He said that sometimes during the morning rush hour that back-up extends to Allen O'Neill Drive. He said that it takes 14 to 16 cars to back up the queue from West Avenue to Allen O'Neill Drive. He said that they have accounted for traffic accidents in the Traffic Report. He said that he will submit a more detailed response to Mr. Galante's issues and concerns in the near future and he will provide copies to the Commission.

Joe Spain asked a question about pedestrian safety and Mr. Ditman said that sidewalks and crosswalks can be improved, but he hesitates to overdo it. He said that some improvements may not be necessary for 5 or 10 years. He said that there is no need for special pedestrian signs with flashing lights. Mr. Spain asked about the Noroton Avenue and West Avenue intersection. He wondered whether there might be improvements to the traffic signal or modifications of the walkways or extra turning lanes that would improve things. Mr. Ditman said that adding a pedestrian phase to the traffic signal would improve traffic safety, but it would make vehicular traffic back up to a greater extent.

Mr. Haff said that there is only one sidewalk at the site and it is on Noroton Avenue close to West Avenue. There are no sidewalks on West Avenue or Elm Street or along much of the Noroton Avenue frontage of the site. Mr. Hill said that the Town should examine the intersection of Noroton Avenue and West Avenue because it is a heavily utilized traffic and pedestrian area. Mr. Spain agreed that the Town has some responsibility to study the matter and suggest that the re-development of the Allen O'Neill project would be the time to create wider traffic lanes on Noroton Avenue and/or West Avenue.

Attorney Hill distributed responses to the memorandum from the Fire Marshal and the memorandum from the Environmental Protection Commission (EPC). He said that Item #23 of the EPC comments concerns the overall density and the potential impact of school children. He said that such concerns are far afield from the EPC and/or conservation commission jurisdiction. Attorney Hill said that the Darien Housing Authority is not setting a precedent that would apply to other DMR projects.

With respect to students in the school system, Attorney Hill said that the number of dwelling units would be increased substantially, but the increased number of students would be minimal. He said

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 15

that in the 52 units in Allen O'Neill, there were only 17 students now. In the 189 units at Avalon, there are only 49 students. He said that the increase in the number of dwelling units at Allen O'Neill does not correspond to the increase in the number of students that should be expected because of the style of the units to be built. In response to a question, Mr. Hill said that the Town Hall Homes housing project consists of 30 units on 2.5 acres of land. It is limited to moderate income senior housing and is therefore not comparable to the Allen O'Neill project which is not age restricted.

A woman spoke in opposition to the project and noted that she is very concerned about the water that flows into basements of houses on Fairfield Avenue. She said that traffic proceeding southbound on Noroton Avenue frequently cuts through Elm Street to get to Fairfield Avenue to avoid the traffic light at the intersection of Noroton Avenue and West Avenue. She also said that houses proposed in the new Allen O'Neill project look nothing like houses on Fairfield Avenue or the rest of the neighborhood. She said that from the back of her house on Fairfield Avenue, she would be looking at a walk out basement and two full stories above that. She did not feel that such a design was compatible with the single family residential neighborhood. She was very concerned with water flows during the construction process and before the drainage plan is implemented. She fears that the houses on West Avenue will become flooded with storm water that is not managed on the Allen O'Neill project. She said that after the construction is completed, the water table in the area will likely be increased by the project and this will impact the neighbors.

Mr. Rogers of 4 St. Nicholas Road said that the proposed development will have a substantial impact on the school system. He said that the number of children in the complex will increase substantially due to the increase in the number of bedrooms. He said many of the proposed units will have two or three or four bedrooms and this will result in larger families occupying the spaces compared to the small houses that are presently located on the Allen O'Neill project. He said that the Commission needs to look into the future to assess the impacts of this project on the entire community,

A woman who resides on Noroton Avenue said that she supports the redevelopment of the Allen O'Neill project and some increase in density, but said that the proposed density of up to 12 units per acre is unacceptable. She said that due to drainage, traffic, and poor maintenance history of the project, she would anticipate that the project will cause negative impacts on the neighbors. She said that they should have an exit on West Avenue as well. She said that the traffic projections are too low and are not realistic. She noted that about 20% of the units in Allen O'Neill are currently not occupied. She said that that 20% unoccupied feature should be factored into the existing traffic counts and the existing number of students.

Jenny Schwartz, Chairman of the Darien Housing Authority said that there are 52 units on the site and that 47 units are presently occupied. There are 27 children from Allen O'Neill that are in the school system at this time, but this number will be lower by the time the project is built. She said that the school age population decreased by 4 children last June. Mr. Spain said that it would be helpful to have the past 5 years of vacancies and number of students to see if there is a trend that should be accounted for.

Mr. Hill said that in one of the conceptual designs, there was a driveway to West Avenue, but it was deemed inappropriate and impractical. Mr. Ditman said that it is better not to have a West Avenue

PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
NOVEMBER 25, 2008
PAGE 16

driveway due to the curve in the road and the difficult sight line in that location. He said that having a driveway from the development to West Avenue would create a potential conflict and would therefore increase risks of an accident.

Arthur Bates of 236 Noroton Avenue expressed his opposition to the extent of the redevelopment. He said that the acreage of the site is sometimes listed as 10.5 acres and other times as 12.1 acres. He said that the density is sometimes 14.8 units and at other times referred to as a maximum of 12 units per acre. He said that at times the floor area ratio is listed at 2.27 and, at other times, it is listed as .28. He said that the drainage areas have changed and that things are not consistent. Mr. Bates said that the traffic counts were probably taken on a day when there were no school classes due to staff development work day within the school system. He submitted a photograph of traffic congestion on the street on a typical school day. He said that it is not unusual for backups of 18 to 20 cars in the southbound lane of Noroton Avenue going from the intersection of Noroton Avenue and West Avenue as far back toward the north as Elm Street.

Mr. Bates said that traffic projections are much too low and that many people do cut around the site and use Fairfield Avenue. He said that creating such major changes of the Regulations exclusively for the benefit of the Housing Authority would not be appropriate and would not be in keeping with the neighborhood. He said that the proposal would virtually double the density of the facility and substantially reduce the front yard setback from 50 feet to 30 feet. He said that these are not minor changes, but will have major impacts on the neighborhood. He said that the applicant has chosen to characterize the neighborhood by the 18 largest homes in the neighborhood, not by the majority of houses in the area.

Jan Thompson explained that she was a neighbor and has experienced water in the basement after her neighbor added on to their house. She said that the existing houses on Elm Street are much smaller than the very large proposed new structures. She said that doubling the number of units would create much too much traffic and that the speed of the traffic in the area is of great concern. She said that the proposed development does not mesh with the neighborhood.

Commission members noted that due to the late hour, they would need to continue the public hearing. They asked the applicant to possibly recount the traffic on a school day and provide information on the amount of traffic on Elm Street going east to Fairfield Avenue. The Commission decided to recess the public hearing and continue the public hearing at 8:00 P.M. on December 9th in the auditorium of the Town Hall. The motion was made by Mr. Finke, seconded by Mr. Hutchison and unanimously approved. There being no further business, the meeting was adjourned at 11:05 P.M.

Respectfully submitted,

David J. Keating
Assistant Director of Planning